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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/623,819	09/08/2000	Antonio Branco	BRANCO ET AL-1 (PCT)	9060

7590

09/20/2002

Collard & Roe
1077 Northern Boulevard
Roslyn, NY 11576-1696

EXAMINER

BUTLER, DOUGLAS C

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 09/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



07/623817

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DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 7/8/02 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-13 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1-13 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

12. ☒ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The ~~certified~~ copy has ☒ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

Art Unit: 3683

DETAILED ACTION

1. The first page of the specification should contain a reference to the parent PCT application.
2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
4. The Search Report and submitted prior art have been considered.
5. The application is objected to because of alteration on page 7, last line which has not been initialed and/or dated as is required by 37 CFR 1.52(c). A properly executed oath or declaration which complies with 37 CFR 1.67(a) and identifies the application by application number and filing date is required.
6. Claim 1, line 1 "consisting" should be changed o --comprising--.
7. Claim 1, line 4 'A' should be changed to --a--.

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8. See page 3 of the instant specification which makes reference to specific claims. If possible, this should be avoided.

9. The Abstract should be a single paragraph and within the 50-150 word range. Also, legal terms such as "said" and "means" should not be used.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "or the like" in claim 1, line 15, renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby. Also, the phrases "most cases" in claim 1, line 9, claim 1, line 32; "in particular" in claim 1, line 9, claim 9, line 2; "it" in claim 1, line 38; "the one end" of claim 1, line 13, "the other end" of claim 1, line 15 are unclear.

The lack of antecedent basis for the aforementioned recited elements in the claims and/or other noted deficiencies render(s) the claims indefinite since the claims do not set out and circumscribe a particular area with a reasonable degree of precision and particularity as required by the second paragraph of 35 USC 112 and as mandated by current case law. For example, see In re Moore, 169 USPQ 236(CCPA 1971). Accordingly, one skilled in the art to which the invention pertains

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endeavoring to approach the area circumscribed by the claims would not be able to readily and accurately determine the metes and bounds of the claims and the protection being sought by applicant(s). See also, In re Hammack, 166 USPQ 204(CCPA 1970).


12. Claims 1-13 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

13. References A-E on Form PTO-892 discloses pneumatic suspensions with pneumatic bellows.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Butler whose telephone number is (703) 308-2575. The examiner is normally in the USPTO Monday-Friday from 5:30 a.m. to 2:00p.m. Although the examiner may not always be present in his office to immediately answer the phone when called, the examiner will make every effort to return the call as soon as possible. If the examiner does not answer his phone, the examiner suggests that a brief message be recorded on the examiner's voice mail machine when necessary and appropriate. The examiner normally checks recorded phone calls at least once a day unless on leave.

The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687. Examiner Butler's immediate supervisor is Jack Lavinder at (703)308-3421.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


DOUGLAS C. BUTLER
PRIMARY EXAMINER

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9/18/02